

**JUN 20 2007**

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Docket No. GJE-7134  
Serial No. 10/633,209Remarks

Claims 1-7 were previously pending in the subject application. By this Amendment, the applicant has amended claims 1, 6, and 7 and has added new claim 8. Support for the amendments and new claim can be found throughout the subject specification and claims as originally filed, including, for example, at page 2 lines 13-16 and Figure 3C. No new matter has been added by this Amendment. Accordingly, claims 1-8 are currently before the Examiner. Favorable consideration of the claims now presented is respectfully requested.

The claim amendments set forth herein have been done in order to lend greater clarity to the claimed subject matter and to expedite prosecution. The amendment and cancellation of the claims should not be taken to indicate the applicant's agreement with, or acquiescence to, the rejections of record. Favorable consideration of the claims now presented, in view of the remarks and amendments set forth herein, is earnestly solicited.

Claims 4-7 have been rejected under 35 U.S.C. §112, second paragraph. Claim 1 has been amended herein to provide antecedent basis for the recitation of "distal" and "proximal" parts of the haptic(s). Claims 6 and 7 have also been amended to address the issues raised by the Examiner. The applicant appreciates the Examiner's careful review of the claims. In view of the amendments to the claims, the applicant believes that the metes and bounds of these claims have been clearly delineated and, accordingly, the applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

The drawings have been objected to under 37 CFR 1.83(a). The applicant respectfully requests reconsideration of this objection to the drawings. The drawings submitted with this application clearly illustrate the claimed invention, including the haptics. The claims contemplate embodiments having multiple haptics. The skilled artisan could, with the benefit of the current disclosure (including the drawings), readily understand and practice the invention as required under 35 U.S.C. §112 and 37 CFR 1.81. Obviously, a patent application for an invention that requires more than one of a particular element cannot have a drawing for every possible number of that element. Rather, 37 CFR 1.83(a) simply requires that the element be shown, which the current

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applicant has done. Therefore, reconsideration and withdrawal of this objection are respectfully requested.

Claims 1-7 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Toop (EP 0962196) in view of Blake (U.S. Patent No. 6,425,917). The applicant respectfully traverses this ground for rejection because the cited references, either taken alone or in combination, do not disclose or suggest the applicant's intraocular lense.

Toop describes an intraocular lens for placement in the capsular sac in the posterior chamber of the eye. The problem with such a lens is that, as the capsular sac contracts, the haptics buckle and twist. Toop solves this problem and describes a lens that is resistant to haptic failure, by virtue of the fact that the haptics undergo a two-stage compression in the plane of the lens.

The intraocular lens disclosed by Blake is of a completely different type. First, it is an angle fixated intraocular lens (IOL) for placement in the anterior chamber angle, which is the junction between the iris and the cornea. The diameter formed by the anterior chamber angle varies in the population, thus making sizing of angle fixated IOLs difficult. Blake addresses this problem by having a two-part haptic, comprising two rigid elements bridged by a flexible (low modulus) material. This allows the haptic to rotate, i.e., it is essentially hinged, and fit securely into the anterior chamber angle. The low modulus material (usually an elastomer) may extend towards the tip of the haptic, in order to provide a soft atraumatic contact point for the soft eye tissue. This has the incidental effect of making the distal part of the haptic thicker.

The present invention solves a completely different problem; toric IOLs are rotationally asymmetric and therefore they must not rotate when positioned in the eye. Starting from the capsular IOL disclosed in Toop, and given the problem faced by toric IOLs, i.e. the need to inhibit rotation, the skilled person would simply have no motivation to turn to a publication describing angle fixated IOLs. The two areas of the eye have completely different anatomy and presumably a lens would have to be modified if it were to be adapted for a different area of the eye. Further, the Blake publication does not address the problem faced by toric IOLs, i.e. the need to inhibit rotation (not just the need to "stabilize" the IOL, which is a feature needed by all IOLs). In fact, "toric" is merely mentioned in a long line of possible optics. Even if the skilled person were to accidentally come

across this Blake publication, the skilled person would still have no reason to believe that rotation of an IOL would be inhibited by making a haptic thicker in the distal region.

It has been well established in the patent law that the mere fact that the purported prior art could have been modified or applied in some manner to yield an applicant's invention does not make the modification or application obvious unless "there was an apparent reason to combine the known elements in the fashion claimed" by the applicant. This long-standing principle was recently reaffirmed by the U.S. Supreme Court. *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_\_ (2007). Furthermore, an applicant's invention is not "proved obvious merely by demonstrating that each of its elements was, independently, known in the (purported) prior art." *Id.* As is clearly shown by the foregoing remarks, in the cited references one finds no reason to combine the teachings of the cited references to arrive at the current invention. An assertion of obviousness without the required suggestion or expectation of success in the prior art is tantamount to using applicant's disclosure to reconstruct the prior art to arrive at the subject invention. Hindsight reconstruction of the prior art cannot support a §103 rejection, as was specifically recognized by the CCPA in *In re Sponnoble*, 56CCPA 823, 160 USPQ 237, 243 (1969).

The applicant respectfully submits that, without the benefit of the current applicant's disclosure, there would be no reason to combine the cited references to arrive at the claimed invention. Accordingly, the applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103 based on Toop in view of Blake.

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In view of the foregoing remarks, the applicant believes that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

The applicant also invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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